

## **Minutes of the Land Use, Parks and Environment Committee – November 16, 2004**

The meeting was called to order at 8:53 a.m. by Chair Kolb.

**Present:** Chair Walter Kolb, County Board Supervisors Kathleen Cummings, Pauline Jaske, Scott Klein (arrived at 9:04 a.m.), Bill Kramer, Daniel Pavelko (arrived at 8:58 a.m.), and LCC Member Bob Stigler; **Absent:** Vera Stroud

**Staff Present:** Legislative Policy Advisor Mark Mader, Legis. Associate Sandra Meisenheimer

**Also Present:** Parks and Land Use Director Dale Shaver, Land Resources Mgr. Perry Lindquist, Sr. Planner Kathy Moore, Principal Asst. Corporation Counsel Debbie Price, Chairman Jim Dwyer

**Public Present:** Gina Hansen of Metropolitan Builder's Assn., Kathy Gutenkunst of Oconomowoc

### **Approve Minutes of: November 2, 2004**

**Motion:** Kramer moved, second by Cummings, to approve the minutes of 11/2/04. **Motion carried 4 – 0.**

### **Read Correspondence**

Kolb referred to a letter from Wilbur Petroskey, President of the North Central Land and Water Conservation Assn., asking for support for Tom Rudolph's re-election to the Land and Water Conservation Board.

### **Public Comment**

Gina Hansen of Metropolitan Builder's Assn. stated she was here regarding the Waukesha County Shoreland and Floodland Protection Ordinance and added that Director Shaver and his staff have been great to work with.

Kathryn Gutenkunst of Oconomowoc stated she was also here regarding Section 46 of the Shoreland and Floodland Ordinance. Her concern is with having to come to the County to get a permit to cut trees and shrubs in her front yard. She believes this section steps on private property rights. These permits will increase the workload and give staff more work than they need.

### **Consider Proposed Bylaws for the Wisconsin Land & Water Conservation Association**

Lindquist referred to the packet of 10 resolutions that were previously distributed. He reviewed the resolutions and a committee consensus was taken on each so Lindquist can vote at the meeting.

**Motion:** Jaske moved, second by Kramer, to give Perry Lindquist authority to vote on each resolution at the conference if Supervisor Jaske doesn't attend. **Motion carried 6 – 0.**

**Motion:** Jaske moved, second by Kramer, to support the resolutions with the exception of #3 (Supporting the New/Revised By-laws of the Wisconsin Land and Water Conservation Association, Inc.), which the committee is opposed to. **Motion carried 6 – 0.**

Lindquist passed out the 2004 WLWCA Election Ballot of the Land and Water Conservation Board. He stated that the State association nominates three people to serve on the Board, which oversees land and water programs.

**Motion:** Jaske moved, second by Cummings, to support George Brandt of Trempealeau County, Mary Krumbiegel of Washington County and Katherine Zowin of Sauk County as members of the WLWCA Board. **Motion carried 6 – 0.**

Lindquist pointed out an error in the by-laws. He stated the election should not occur in November which is one month before the annual meeting. He said our annual meeting is in December so elections should occur at the Spring Organizational Meeting.

**Motion:** Jaske moved, second by Cummings, that Perry Lindquist should make an amendment at the conference to change the dates of election. **Motion carried 6 – 0.**

Stigler pointed out that the State office is talking about eliminating Waukesha County's Farm Service Agency (FSA) office and combining it with another county. Milwaukee and Waukesha counties are already combined and have been for a number of years. He stated that his term as chairman of the FSA Committee is up, and therefore this is his last meeting with the LUPE Committee. There will be a replacement selected in January. (Future agenda item after 12/13/04)

**Consider Proposed Ordinance: 159-O-074 Amend Waukesha County Code of Ordinances by Adopting Nonmetallic Mining Reclamation Section**

Mader said the code was changed several years ago. It was updated, changed and reorganized, but apparently the person revising the code left the Nonmetallic Mining Reclamation Section out of the revised code. This ordinance puts that section where it should have been to begin with.

**Motion:** Pavelko moved, second by Jaske, to approve Ordinance 159-O-074. **Motion carried 6 – 0.**

**Consider Proposed Ordinance: 159-O-076 Amend the Waukesha County Shoreland and Floodland Protection Ordinance by Creating, Amending and Renumbering Various Sections**

Moore and Price were present. Moore gave a general overview of the changes. She stated this whole process started in 2002. Originally there was a public hearing in September of 2002, and it was held open until the end of October. All the comments from the public hearing, DNR, builders' groups were reviewed and then the ordinance was revised. Those revisions were sent out in 2003 and more comments came back. They met with two representatives from each of the four towns under county zoning and worked through the issues where there were inconsistencies. The non-conforming structure issue was removed from the amendments, the 50% issue was removed, the merger of substandard lots of record, which was very controversial, was removed, and the conditional procedure for cell towers was taken out. Basically, the amendments are an update of the statutory references, corrected division names, changed names, such as the Waukesha County Stormwater and Erosion Control ordinance, changes and updates to some of the definitions, and updates to the site plan and plan of operations.

Moore said other changes include references to Waukesha County construction in the Erosion Control and Stormwater Management Ordinance, cleared up that retaining walls do not have to meet the offset and road setback requirements, did some things with setback averaging, and added a provision that a building or addition can be 50 ft. from the conservancy wetland if it is at least 75 ft. from the lake and the natural terrain is at least 3 ft. above the conservancy wetland boundary. Moore said they clarified the issues on patios and decks, as well as the formulas, projections and offsets of non-conforming lots. They also updated the current processes they use, such as who appoints the Board of Adjustment, references to Comm. 83, how fees are established, and how the zoning administrator is designated. Also, Corporation Counsel will be the official codifier of the ordinance for the purpose of making updates on the computer.

Moore said one additional point relates to Section 46 and shoreland cutting. NR 115 does require counties to have shoreland cutting regulations, and the county ordinance has shoreland cutting regulations in it that are not clear. They have been trying to clarify these regulations. They are also implementing the County Development Plan by dealing with primary environmental corridors that are outside the 35' strip designated by NR 115. A long discussion continued regarding Section 46.

Price stated she is suggesting that everyone work together and see what should be changed – what language should be pulled, what should stay in, and how to make it so everyone can live with it, etc. Kolb asked would you agree to put forth the ordinance with the old language for Section 46. Price said her choice would be that Section 46 goes forward as revised and then discuss how specifically it should be tweaked. At a future time they would come back with an amendment.

Shaver referred to technical refinements in the ordinance and a handout was passed out -- “Changes Needed to the Proposed Amendments to the Waukesha County Shoreland and Floodland Protection Ordinance.” Price reviewed the changes with the committee.

**Motion:** Cummings moved, second by Jaske, to approve Ordinance 159-O-076.

**Motion:** Jaske moved, second by Kramer, to amend Section 4 to add “side” at the end of the sentence after “Basement”. **Motion carried 6 – 0.**

**Motion:** Kramer moved, second by Pavelko, to amend Section 5 to delete “highest point of the roof” and add “primary horizontal soffit of the uppermost floor”. **Motion carried 6 – 0.**

To Kramer’s question about sections that were deleted, Price replied that the Park and Planning Commission’s version of Section 65, which dealt with the definition and how to treat open space was pulled and will be dealt with in a more comprehensive way in future amendments. Also, the Park and Planning Commission’s version of Section 66, which dealt with open space, recreational uses and impervious surfaces, was pulled.

**Motion:** Kramer moved, second by Jaske, to amend Section 110 to delete “59.97(5)” and add “59.692”. **Motion carried 6 – 0.**

**Motion:** Pavelko moved, second by Cummings, to consider Section 46 for a separate vote. **Motion carried 6 – 0.** There was discussion by the committee and staff pertaining to the procedure for keeping or removing Section 46. Since Section 46 came to the committee in the ordinance, removing the section requires a majority vote. Hence, if done in the affirmative, a tie vote would keep it in the ordinance.

**Motion:** Klein moved, second by Kramer, to keep Section 46 in the ordinance. **Motion prevailed 3 – 3; Cummings, Kolb, and Pavelko voting no.**

**Motion:** Kramer moved, second by Pavelko, to amend Sections 8 and 20 by deleting “such as” and adding “including but not limited to”. **Motion carried 6 – 0.**

Kolb suggested that the 3 – 3 vote on the amendment pertaining to Section 46 should be shown on the County Board agenda. Mader said he will discuss this with staff. **On the motion to approve the ordinance, motion carried 4 – 2; Kolb and Pavelko voting no.**

**Motion:** Cummings moved, second by Kramer, to reconsider the vote on Ordinance 159-O-076.  
**Motion carried 6 – 0.**

**On the motion to approve the ordinance, motion defeated 3 – 3; Pavelko, Kolb and Cummings voting no.**

**Consider Proposed Ordinance: 159-O-075 Amend the Waukesha County Zoning Code by Creating, Amending and Renumbering Various Sections**  
Moore and Price discussed the ordinance and their suggested amendment.

**Motion:** Kramer moved, second by Jaske, to approve Ordinance 159-O-075.

**Motion:** Kramer moved, second by Pavelko, to amend Section 4 to delete “highest point of the roof” and add “primary horizontal soffit of the uppermost floor”. **Motion carried 6 – 0.**

**Motion:** Pavelko moved, second by Jaske, to amend Sections 7 and 17 by deleting “such as” and adding “including but not limited to”. **Motion carried 6 – 0.**

**On the motion to approve the ordinance as amended, motion carried 6 – 0.**

**Motion to adjourn:** Kramer moved, second by Jaske, to adjourn the meeting at 12:03 p.m. Motion carried 6 – 0.

Respectfully submitted,

Pauline T. Jaske  
Secretary

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